

**IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)**

W.A.K., II a minor, who sues by Page S. Karo,)	
his next friend, natural guardian, and mother,)	
)	
Plaintiffs,)	Case No. 3:09CV00575 (HEH)
)	
v.)	
)	
WACHOVIA BANK, N.A. Individually)	
and as Co-Trustee of the Rosalie S. Karo Trust)	
u/a October 18, 1966.)	
)	
Defendant)	

JOINT DISCOVERY PLAN AND REPORT ON FED. R. CIV. P. 26(f) MEETING

The Plaintiffs Page Karo on behalf of her minor child W.A.K., II and Defendant Wachovia Bank, N.A., (“Wachovia”), by counsel, jointly file this Report on the parties’ Federal Rule of Civil Procedure Rule 26(f) meeting. Pursuant to Fed. R. Civ. P. 26(f), the Parties held a meeting in person on October 14, 2009 at the offices of Hunton & Williams LLP. D. Alan Rudlin and William P. Childress attended for Wachovia. Joseph E. Blackburn, Jr. and Churchill G. Bowles attended for the Plaintiffs. As a result of that meeting and follow-up communications by telephone and email the parties have agreed to the following discovery plan:

1. **Pre-discovery Disclosures.** The parties agree to exchange the information required by Fed. R. Civ. P. 26(a)(1) on or before November 2, 2009.
2. **Agreements related Rule 26(f)(3)(C).** The parties do not foresee the need for extensive discovery of electronically stored information. The parties agree that electronically stored information properly subject to discovery under Rule 26(b)(2)(B) may be produced as

static images (paper copies) to the extent the production of paper documents are not unduly burdensome.

3. **Discovery Plan.** The Parties propose to the Court the following discovery plan:

a. At this time, the parties do not request any other changes to the limitations on discovery imposed by the Federal Rules of Civil Procedure and by Local Rules, except as modified by the Court through its Scheduling Order of October 2, 2009. The parties agree that all discovery will be commenced in time to be completed fifty-five (55) calendar days before trial (“discovery deadline”).

b. The parties agree that depositions will be completed by the discovery deadline and that the notice of such depositions will comply with Local Rules.

c. Expert discovery required under Rule 26(a)(2) will be conducted according to the following schedule:

1. Within 60 days before the discovery deadline, the Plaintiffs, and any Third Party Plaintiffs shall disclose the identity of any expert witnesses not already identified in response to interrogatories and shall serve such experts’ written reports in compliance with Fed. R. Civ. P. 26(a)(2)(B). Upon request, the Plaintiffs and Third Party Plaintiffs will make their experts available for depositions at least 45 days before the discovery deadline.

2. Within 30 days before the discovery deadline, the Defendants and any Third Party Defendants shall disclose the identity of any expert witnesses not already identified in response to interrogatories and shall serve such experts’ written reports in compliance with Fed. R. Civ. P. 26(a)(2)(B).

3. Within 15 days before the discovery deadline, the Parties may submit any rebuttal expert reports pursuant to Fed. R. Civ. P. 26(a)(2).

d. The parties have discussed issues regarding service of discovery and pleadings filed through the court’s CM/ECF system. The parties have not agreed to waive or alter any extension provided under Fed. R. Civ. P. 6(d).

e. The Parties agree that communications between counsel and any expert witnesses disclosed pursuant to Fed. R. Civ. P. 26(a)(2), including drafts of any written reports or disclosures, are not discoverable.

f. The Parties agree that to the extent any party intends to assert a claim of privilege or protection as trial preparation material, any such claim must be made in a timely manner and in accordance with Fed. R. Civ. P. 26(b)(5).

4. **Protective Order.** Discovery in this action is expected to yield documents and information of a sensitive and confidential nature, including business, commercial, financial, and trade secret information of individuals and entities associated with the Karo Trust Fund. The parties agree that it is necessary for the Court to enter a protective order to protect the confidentiality of such information. The parties will provide a suitable Proposed Joint Protective Order to the Court.

5. **Inadvertent Disclosures.** The parties agree to the following:

a. That any inadvertent production or disclosure of materials subject to a claim of privilege or work product shall not cause a waiver of such privilege or protection.

b. In the event that any party inadvertently produces documents or materials subject to a claim of such privilege or protection, the producing party will identify the inadvertent disclosure and the receiving party will promptly return the materials.

Dated: October 28, 2009

Respectfully submitted,

WACHOVIA BANK, N.A.

**W.A.K., II, a minor by Page S. Karo,
his next friend, natural guardian, and
mother**

/s/

/s/

D. Alan Rudlin (Bar # 17010)
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CERTIFICATE OF SERVICE

I certify that on the 28th day of October 2009, I will electronically file the attached Joint Discovery Plan with the Clerk of the Court using the CM/ECF system, which will send a notification of that filing (NEF) to the offices of the following:

Joseph E. Blackburn, Jr., Esquire
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and that an additional copy was mailed to the offices of the following non-CM/ECF users:

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/s/

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